



PAYMENTS TO VENDORS BY UNITED STATES ATTORNEYS' OFFICES

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EXECUTIVE SUMMARY

The United States Attorneys (USAs) are the chief federal law enforcement officers in their jurisdictions. Their responsibilities include the prosecution of criminal cases brought forth by the federal government, the prosecution and defense of civil cases in which the United States is a party, and the collection of debts owed to the federal government that are administratively uncollectible. In support of their mission, United States Attorneys' Offices (USAOs) procure a variety of goods and services and make payments to vendors.

The objective of this audit was to determine whether payments to vendors by the USAOs were made in accordance with federal regulations, the policies prescribed by the Executive Office for United States Attorneys (EOUSA), and various payment handbooks.

Audit Scope

Our audit tested vendor payments made at EOUSA and six USAOs — the Eastern District of New York, Southern District of Florida, District of New Mexico, District of Oregon, District of Utah, and Eastern District of Tennessee — using third-party drafts, purchase cards, electronic fund transfers, and Treasury checks. EOUSA was selected with the expectation we would review large dollar value purchases. The other district offices were judgmentally selected to be able to review two extra large offices, two large offices, and two medium offices.¹

In order to determine if payments to vendors made were in compliance with regulations and EOUSA's procedures, we used random and judgmental sampling procedures to choose a total of 1,517 out of 30,422 transactions at the seven locations. The dollar value of our sampled transactions totaled \$2,755,123 out of a total of \$31,726,084.

¹ EOUSA defines an extra large district as an office with 200 or more full-time equivalent positions; a large district has from 92 to 199 positions; and a medium district has from 62 to 91 positions.

Our audit procedures also included reviewing delegations of procurement authority, interviewing key personnel, and employing other testing methods at EOUSA and the district offices sampled.

Results of Two OIG Fraud Investigations

Recently, the OIG investigated procurement and payment frauds at two USAOs. Both frauds involved administrative staff misusing the government purchase card or third-party drafts to improperly acquire personal goods and services. One fraud (over \$435,000) occurred in the Central District of California and the other fraud (\$39,105) in the District of Oregon.

In the Central District of California, the fraud occurred because the Chief of Support Services did not carefully review the purchase card purchases made by a subordinate. At the conclusion of the investigation, the administrative clerk was convicted of defrauding the government and the Chief resigned in lieu of termination.

The fraud at the District of Oregon was a more complicated scheme involving third-party drafts. The Deputy Administrative Officer forged the disbursing officer's signature, destroyed copies of signed drafts, used passwords of former employees, authorized drafts to be written without supporting documentation, and entered drafts into the accounting system that caused the drafts to be written to herself. This fraud primarily occurred because the third-party draft disbursing officer, the Deputy Administrative Officer's subordinate, signed drafts without reviewing supporting documentation. The Deputy was convicted of fraud.

Audit Results

In summary, we found that overall the USAOs' controls and procedures for acquisition and payment of purchases generally were adequate to reduce the opportunities for fraud, loss, or undetected error. Further, our tests found the controls and procedures were generally followed. However, we identified some instances of noncompliance at all the offices we reviewed. Some of the occurrences of noncompliance were similar to the noncompliance that permitted the two cases of fraud described above to occur. Although the number and types of noncompliance that we identified were small in relation to the universe of testing, they indicate that

EOUSA should take additional steps to reduce the likelihood of fraud occurring in the future.

One of the most significant controls in any disbursement system is the separation of duties, *i.e.*, the approval of purchases and the obligation and payment of funds being performed by separate individuals. We found that, while generally adhered to, in 42 transactions out of 1,517 tested, separation of duties was lacking. The 42 transactions were for a total of \$47,640. In each of the transactions, one person acted as both the purchaser and the approving official or budget officer.

Another significant control is to have individuals involved in the procurement and payment processes be officially designated as accountable officers, who can be held personally liable for losses or improper payments. We found over 140 transactions where individuals were not so designated. These were primarily at the District of Utah, where non-designated officials were involved in 116 transactions totaling over \$40,000.

In addition to the deficiencies stated above, other deficiencies we noted involved approval of purchases, obligations of funds, receipt of goods, payments, and accounting for property. Specific acquisition process deficiencies included missing procurement forms or support for them, procurement without written approval, procurement prior to approval, not considering required sources first before procurement, and not determining reasonableness of prices. We also found purchases that were technically prohibited under EOUSA guidelines, which do not allow printing and telecommunication expenses to be paid with a government purchase card. However, we did not find any instances of unnecessary or unlawful purchases.

We also found that the Accountable Officer Signature Form, a form designating approval authority, did not adequately identify each type of accountable officer. In the area of delegated procurement authority, we found no dollar limitation placed on procurements by the USAOs' contracting officers when making purchases from specific government agencies. We discovered that the procurement forms developed at the USAOs did not always contain the required elements to fully document the procurement requirements. In our judgment, the procurement form used by the Southern District of Florida was superior to the procurement forms used by other district offices in that it contained virtually all of the required elements and is used for all purchases. Among several things, the Florida form documents contractor and open market information, justification for not using a small business, accessibility standards, energy efficiency, and price

reasonableness and basis. The form thoroughly documents the required data elements for a purchase transaction.

Recommendations

This report contains seven recommendations designed to improve compliance with established acquisition and payment regulations and procedures by enhancing existing forms and monthly statements used in the acquisition and payment process, expanding EOUSA's review process, and reviewing current acquisition and payment limits. We also recommend improved documentation of the actions taken by accountable officers.

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PAYMENTS TO VENDORS BY UNITED STATES ATTORNEYS' OFFICES

INTRODUCTION

Background

United States Attorneys (USAs) serve as the nation's principal litigators under the direction of the Attorney General. They are stationed throughout the United States, Puerto Rico, the Virgin Islands, and the Northern Mariana Islands. Each is appointed by and serves at the discretion of the President of the United States. There are 94 judicial districts with one USA assigned to each, with the exception of Guam and the Northern Mariana Islands. USAs are the chief law enforcement officers of the United States within their jurisdictions and head the United States Attorneys' Offices (USAOs).

The USAOs have three statutory responsibilities under Title 28, Section 507, of the U.S. Code. Their responsibilities include:

- the prosecution of criminal cases brought forth by the federal government;
- the prosecution and defense of civil cases in which the United States is a party; and
- the collection of debts owed the federal government that are administratively uncollectible.

When responding to these responsibilities, the USAOs procure a variety of goods and services. Once goods and services are procured, the USAOs make payments to vendors through the Justice Management Division (JMD) for required items using different payment methods. The four payment methods we reviewed were third-party drafts, government purchase cards, electronic fund transfers, and Treasury checks.

Audit Objective

Our audit objective was to determine whether the USAOs' controls and procedures over the purchase and payment for goods and services using

third-party drafts, government purchase cards, electronic fund transfers, or Treasury checks were adequate to ensure that vendor payments were made according to the policies prescribed by EOUSA and federal regulations.

To accomplish our objective, we sampled and analyzed 1,517 payments for purchases, sampled and physically located purchased property, and reviewed delegations of authority and separation of duties relating to purchases at EOUSA and six district offices.

Efforts by OMB

Procurements by government agencies are in the billions of dollars each year and are regularly in the news because of reported fraud or abuse. As a result, the Office of Management and Budget (OMB) and the Office of the Inspector General (OIG) have conducted investigations and audits to help reduce procurement abuses.

On October 17, 2002, six months after the OMB requested agencies to combat increasing charge card fraud, the Director of the OMB called for federal agencies to provide quarterly reports detailing their efforts to combat fraud and abuse in purchase card and travel card programs. The Director also requested agencies to take disciplinary actions and make civil and criminal referrals of employees who violate the public trust. Further, OMB's Interagency Task Force identified several best practices that agencies have found useful in combating the misuse of government-issued cards. As part of its efforts, the Task Force also reviewed a general plan from the Department of Justice (DOJ) on their purchase and travel card program and determined that the DOJ's plan was adequate.

EOUSA's Evaluations and Review Staff's Reviews

In conjunction with EOUSA's oversight of USAOs, EOUSA's Evaluation and Review Staff (EARS) conducts reviews of each USAO every three years. The 1-week reviews cover both litigation and administrative activities. The administrative review covers financial management, third-party payments, and acquisition management. The EARS teams are made up of as many as 40 staff from EOUSA and administrative and litigation staff from other USAOs to perform their reviews. If EARS findings are deemed significant, they are reported as "red flags" and are elevated directly to EOUSA's Chief Operating Officer for immediate attention and corrective action. All issued reports require a written response from the applicable USAO within 30 days.

The scope of the EARS reviews includes sampling transactions from the current and prior year. The EARS reviewers look at separation of duties and security over third-party drafts. They also conduct an inventory of unused drafts and perform a voucher file review. In the area of acquisitions, they review the overall management of acquisitions by sampling transactions, reviewing reference materials, and analyzing support from EOUSA and JMD. For delegations of authority, EARS reviews the district office's acquisition procedures, workload, duties, training, ratifications of unauthorized commitments, blanket purchase agreements, and purchase/delivery order files. In the purchase card area, they look at the management of the program and review purchase card files. They also examine the certified invoice procedures used for litigation services and expenses.

Based on our examination, we believe that EARS reviews are generally adequate to identify potential problems in the vendor payment area. However, we have one recommendation in Finding 1 associated with adding steps to their reviews to detect the same types of deficiencies as identified by our audit.

OIG Investigations of Procurement and Payment Frauds

The OIG conducted two recent investigations of procurement and payment frauds committed within the USAOs. In our opinion, EOUSA could have detected the fraud earlier had responsible USAO employees complied with established internal controls and EOUSA's procedures. The OIG investigations resulted in criminal charges against two employees and the resignation of another in lieu of his termination.

Central District of California. In the Central District of California, a procurement clerk defrauded the government of over \$435,000 over a 31-month period (July 1997 through February 2000). The clerk used her government purchase card to acquire goods and services for personal use. She also used two former employees' purchase cards in the scheme. Fraudulently purchased goods included trips to Israel, Australia, and Alaska; department store gift certificates and general merchandise; cellular phone service; car insurance; automobile maintenance; clothing; over 35 computers; 35 printers; 10 scanners; and 50 inkjet cartridges. Due to the volume of improper purchases, a 19-foot rental truck was used to transport some of the items that were seized during the execution of the search warrant. Explanations the procurement clerk used for some of these

personal purchases were for items needed for the government's Weed and Seed Program.²

The fraudulent procurement scheme was first noticed when BankOne, the purchase card issuer, contacted the Central District of California's Chief of Support Services in December 1999 about questionable purchases made in Las Vegas using an ex-employee's purchase card.³ At the time, the Chief was an accountable officer and approving official.⁴ The Chief asked the procurement clerk about the purchases, but she was able to explain the charges to the Chief's satisfaction. The fraud continued until a routine audit by JMD raised concerns, prompting an investigation by the OIG. During the investigation, the Chief was questioned about the excessive purchases. The Chief indicated as the approving official that he would only do a cursory review "to ensure that there was not an absolutely ridiculous expense." Concurrently, but independently of the JMD review, the EARS conducted a review at the Central District of California and found that 1) purchase card statements were sometimes not signed by either the cardholder or approving official, 2) purchase cards were shared with other employees, and 3) purchase card files lack required documentation.

In summary, the Chief of Support Services was not following the existing government purchase card procedures. According to the OIG investigative report, the clerk was able to elude detection because of, in the Chief's words, his "complacency, stupidity, and ineptness." The Chief also said the procurement clerk "would produce paperwork supporting the purchase, which he [the Chief] realized at the time ... was fabricated." Had the chief been doing his job according to EOUSA's *Government Purchase Card Program for Simplified Acquisition*, as an approving official, he would have 1) signed and dated the monthly statements after reviewing supporting documentation, where he should have noticed that monthly account cycle reports included charges for former employees; 2) cancelled the purchase cards of former employees; and 3) challenged documentation for purchases

² Weed and Seed is a community-based multi-agency program to control violent crime, drug trafficking, and drug-related crime in targeted high-crime neighborhoods.

³ BankOne is the DOJ's purchase card contractor.

⁴ The term Accountable Officer is defined by Title 31 of the U.S. Code and Comptroller General decisions. Accountable officers are those employees who are responsible for the obligation, custody, and payment of government funds. Accountable officers may be held personally liable and/or subject to disciplinary action for the loss or improper payment of government funds.

not meeting the needs of the USAO.⁵ The clerk was convicted of defrauding the government and the Chief resigned in lieu of termination.

District of Oregon. In the District of Oregon, the Deputy Administrative Officer defrauded the government for \$39,105 during an 11-month period (January 2000 through November 2000). As reported in the OIG investigation report, the Deputy Administrative Officer was responsible for most of the budgeted accounts, reviewing official travel charges, and receiving monthly listings of travelers' delinquent accounts. She was also responsible for reviewing a monthly printout of the office's financial obligations. The EARS team completed a review the year before the fraud occurred. The Deputy Administrative Officer responded to the OIG Investigator that she "knew that any money stolen during the first year after their [EARS] audit would more than likely not be identified [detected]."

This creative fraudulent scheme included misusing her government-issued travel card, developing her own form as the basis for requesting third-party drafts to be issued, using the password of a former administrative technician to issue checks to herself, forging the signature of the third-party draft disbursing officer, authorizing third-party drafts to be issued without supporting documentation, creating a fictitious account under the Expert Witness Program, and entering checks into the FMIS accounting system that caused drafts to be written to for her personal use.⁶

Using the Deputy Administrative Officer's position in the administrative unit, she was able to instruct a subordinate disbursing officer to sign third-party drafts without presenting supporting documentation, such as an original invoice. For documentation, the subordinate disbursing officer was asked to compare the written drafts to the Deputy Administrative Officer's self-made form rather than to the invoices and supporting documents. The District of Oregon received notices of misuse of the Deputy Administrative Officer's government-issued travel card and did not report them to her supervisor.

This undetected fraud primarily occurred because a disbursing officer in the District of Oregon was not following the requirement to review supporting documentation prior to signing third-party drafts. In some instances, the Deputy Administrative Officer presented her self-made form

⁵ The account cycle report is a monthly report transmitted by BankOne to approving officials listing all purchase card purchases made by assigned cardholders.

⁶ FMIS is a previous version of JMD's Financial Management Accounting System.

as documentation instead of original invoices. According to the OIG investigative report, one disbursing officer just signed the drafts left on the table without reviewing the supporting documentation. Disbursing officers should be able to stop proposed payments because of the lack of sufficient supporting documents. The fraud also occurred because missing copies of the fraudulent third-party drafts did not cause suspicion and the use of non-standard, self-made forms should have caused the disbursing officer to question those transactions and deny signature on the applicable third-party drafts. In this fraud the regulations were not followed, and the Deputy Administrative Officer abused her authority, resulting in her prosecution.

FINDINGS AND RECOMMENDATIONS

1. ACQUISITION AND PAYMENT PROCEDURES

Overall, the procurement and payment directives issued by EOUSA and other authorities set forth a system, that if complied with, is sufficient to prevent or detect fraud, loss, or error in payments to vendors. We found an overall low error rate in our tests of the procurement and payment system, indicating that the USAOs generally complied with the directives. Nonetheless, we did find instances of noncompliance that would occur less often by implementing our recommendations.

During the audit, we reviewed 1,517 purchase transactions and examined 10,111 documents at 6 of the USAOs and EOUSA. Our audit consisted of detailed reviews of procurement documentation and approximately 150 interviews with personnel involved in the acquisition and payment process. Throughout this audit, we performed extensive audit testing including reviewing transactions for split purchases, duplicate payments, and fraudulent purchases.⁷ (See Appendix I for more details.) Although some of our findings of noncompliance with the procurement and payment directives may appear minor, they nonetheless suggest that there are additional steps that EOUSA and the USAOs should take to minimize the likelihood of fraud occurring.

As required by OMB Circular A-123, *Management Accountability and Control* (Revised), it is management's responsibility to establish internal controls to assure protection for and timely detection of unauthorized acquisition, use, or disposition of an agency's assets. The controls in place should be sufficient to ensure proper separation of duties. The Comptroller General's *Standards for Internal Control in the Federal Government* also contains standards for establishing and maintaining systems of internal control for federal agencies. Separation of duties, proper execution and

⁷ A split purchase is dividing a procurement into multiple parts and paying each part at a different time to avoid exceeding the purchaser's delegated procurement limit.

documentation of transactions, effective internal controls, and physical control over assets are all part of an adequate system of controls.

Separation of Duties

Separation of duties is one of the most important procedures available in the internal control process to reduce the risk of fraud, loss, or undetected error in any financial system. The lack of separation of duties can lead to the types of fraud that were present in the District of Oregon and the Central District of California.

At 6 of the 7 sites visited, required separation of duties did not occur in 42 of 1,517 transactions tested throughout the acquisition and payment process. The 42 transactions totaled \$47,640. In these transactions, one person performed two separate functions as shown in the chart below that should have been performed by different persons.

The following table shows the results of our tests of separation of duties at EOUSA and the six USAOs we reviewed.

Lack of Separation of Duties on Procurements

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Approving officer was also the disbursing officer or the subcertifier				3			4	7
Purchased and approved by the same person	2		3			7		12
Approving officer was also the budget officer	1	17					2	20
Budget officer was also the purchase card user						3		3
Totals	3	17	3	3	0	10	6	42

Source: Data based on OIG analysis of purchase transactions.

Lack of Designation of Accountability

The Accountable Officer Signature Form, Form OBD-234, is described in the Financial Management Policies and Procedures Bulletin, No. 00-01, as "... a critical OBD financial management internal control documenting the

individuals empowered to approve or effect financial transactions for each component.”⁸ Further, Title 31 of the U.S. Code, Comptroller General Decisions, DOJ Order 2110.39A, and the EOUSA Financial Manual state that accountable officers are those government employees who are responsible for the obligation, custody, and payment of government funds. Accountable officers, by signing the form, acknowledge that they may be held personally liable and/or subject to disciplinary action for the loss or improper payment of funds under their authority. Each accountable officer is specifically designated as such on Form OBD-234 by their respective U.S. Attorney.

The current Form OBD-234 (revised in September 1999) includes designations for approving officers, subcertifiers of invoices or vouchers, third-party payment disbursing officers, and those with specific delegated procurement authority. However, the instructions for the Form OBD-234 do not explain that all employees with a delegated procurement authority, *e.g.*, purchase cardholders and Assistant U.S. Attorneys authorizing the purchase of litigative services, should sign the form. Further, the authority to certify the availability and obligation of funds was not included as one of the designations on the form. Certification and obligation of available funds is a budget officer role and is necessary prior to the acquisition of goods and services. The signing of an obligating document, specifically the certification that funds are available to pay for goods and services, is an accountable officer function by definition. We believe that EOUSA should discuss with JMD the need to add budget officers or staff certifying the availability and obligation of funds to the current Form OBD-234. At EOUSA, we found at least four older versions of the Form OBD-234 in use in the sampled transactions. This occurred because instructions issuing the Form OBD-234 did not require updating old forms unless there were changes to specific delegations or relocations of applicable staff.

While reviewing payments for purchases, we found various examples of accountable officers without a signed Form OBD-234. At EOUSA, 14 accountable officers were approving transactions that did not have a signed Form OBD-234 authorizing that authority. Another 128 transactions were found at three sites where the signature certifying the availability and obligation of funds was that of budget personnel who had not been designated on a Form OBD-234. EOUSA and the District of Utah accounted for 125 of the 128 transactions; the Southern District of Florida accounted for the remaining three transactions. At the District of Utah, two disbursing

⁸ OBD stands for Offices, Boards, and Divisions in the DOJ.

officers had not been designated as third-party payment disbursing officers on the Form OBD-234.⁹ The two disbursing officers had signed 116 third-party drafts totaling \$41,548. The absence of a signed Form OBD-234 increases the risk of purchasing unnecessary and unallowable goods or services. We believe that the EARS reviewers should increase their scrutiny of the Form OBD-234 in their triennial audits.

Approval of Purchases

According to the *Government Purchase Card Program for Simplified Acquisition*, paragraph 8.D, and the *Third Party Payment Policies and Procedures Handbook*, Sections 3.O and 6.E, all purchases must be approved in advance by an approving officer. For each purchase, the approving officer must sign a procurement authorization form, in effect certifying that the requested purchase was legal and necessary.

Authority to Procure. At EOUSA, we found 5 purchases out of 222 totaling \$6,830 where approval was given by a person who had no authority to approve the purchases.

Reasonable Procurements. One audit test was to review all 1,517 sampled transactions for purchases that appeared unreasonable or for purposes other than the USAOs' official use. After initial tests and discussions with the applicable administrative staff, we found that the number of procurements appearing unreasonable was very small, and we considered this a good record for the USAOs considering the large number of transactions sampled.

However, we found 1 procurement out of 222 at EOUSA where the requisition described the purchase of services as "\$20,000 for overtime, miscellaneous and etc." This ambiguous wording on the purchase documents could allow non-specified goods or services to be purchased. We believe that approving officers and budget officers should be on the alert for procurements with ambiguous wording and should not authorize those transactions without obtaining further detailed explanations.

⁹ Subsequent to our fieldwork, EOUSA provided documents demonstrating that the required certifications had been updated and were now maintained at the District of Utah as required.

Obligation of Funds

We found that the documentation for 32 of 1,517 transactions totaling \$145,681 did not include the signature of a budget officer or budget staff certifying the availability of funding. Seventeen of the 32 transactions were found at EOUSA; the remainder was at the District of Oregon, the District of Utah, the Eastern District of New York, and the Southern District of Florida. For those transactions, the purchaser should have refused to proceed with acquisition because there was no signature certifying the availability of funds.

Acquisition Process

We found a variety of deficiencies in the acquisition process, which we describe below.

Missing Procurement Forms and Supporting Documents. The procurement authorization form is used to document the acquisition process. It requires the signatures of both an approving officer and a budget officer. Of the 1,517 transactions tested, we identified 23 procurements totaling \$2,511 that did not have a procurement form to support each purchase — 14 forms were missing in the District of New Mexico, 4 in the District of Oregon, 1 at EOUSA, 2 at the Eastern District of New York, and 2 at the Eastern District of Tennessee. The absence of this authorization could lead to unauthorized procurements or the concealment of fraud.

We also identified two additional transactions at the Eastern District of New York, one at the District of Utah, and four in the District of Oregon that had no supporting documentation at all. These seven transactions totaled \$2,741. The administrative staff at those offices could not provide any documents supporting these seven purchases. We expected to find, at a minimum, a procurement form and a vendor invoice or a purchase card slip. Missing procurement forms and supporting documents were evident in the two previous OIG investigations of fraud in the District of Oregon and the Central District of California.

Procurement Without Written Approval. Twenty-two out of 1,517 procurements, totaling \$9,619, did not have the signature of an approving officer on the procurement documents. The procurement forms without approval were found at EOUSA, the District of New Mexico, the District of Oregon, the Southern District of Florida, and the Eastern District of New York. The approving officer's signature certifies that the goods or services to be purchased were legal and necessary. EARS reviewers

considered it a “red flag” when approval by the approving officer is not found on the procurement documents. Further, the procurement staff responsible for the purchases could be held personally liable if the items procured did not have management’s approval. These 22 purchase requests should have been cancelled. Procurements without approval were also present in the two OIG fraud investigations in the District of Oregon and the Central District of California. We believe that the EARS reviewers should intensify their review of this area.

Procured Prior to Approval. We found 95 purchases (\$43,788) in the sample of 1,517 transactions at all 7 offices in which the procurement staff had bypassed the requirement for approval of the transaction prior to the purchase. In the District of Utah, for example, the procurement staff was ordering supplies, attaching copies of the order confirmations to the procurement documents, and then obtaining the approval of the approving officer. The error rate at the Eastern District of New York was 6 percent, 12 percent at the Eastern District of Tennessee, and 16 percent at the District of Utah.

The following table shows the distribution of this deficiency by office.

Procurements Prior to Approval

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Purchase made prior to approval	7	2	9	13	24	28	2	85
Purchase made prior to approval; approving officer did not date procurement form					1	6	3	10
Totals	7	2	9	13	25	34	5	95

Source: Data based on OIG analysis of purchase transactions.

Purchasing goods and services prior to approval increases the risk that fraud could occur or that purchased items may not meet the USAO’s needs. This type of activity is also evidence that internal controls are weak and the procurement staff is not carefully reviewing purchase documents.

Required Sources Were Not Considered First. At EOUSA, the District of Oregon, the District of Utah, the Eastern District of New York, and the Eastern District of Tennessee, we found 41 purchases, totaling \$21,719, where the reasons for not using required sources when purchasing supplies and services was not adequately documented. The documentation did not

indicate that required sources were first considered before the procurement was made from commercial sources. (See Finding 2 for more information on the design of the procurement form documenting required sources.) *Federal Acquisition Regulation*, Subpart 8.001, lists the required sources to be first considered when purchasing supplies and services. The regulations also stipulate that required sources be considered in a prescribed sequence. In addition, the *Government Purchase Card Program for Simplified Acquisition*, paragraph 8.E., states that, "Required sources must be considered regardless of the dollar value (whether a \$2 purchase or a \$25,000 purchase)."

EOUSA and the Eastern District of Tennessee used a form for purchase card procurements that minimized the opportunity for the procurement staff to record a correct answer considering required sources. Both forms required the purchaser to explain why they did not use a required source in those situations when a required source was in fact used. In order to comply with *Federal Acquisition Regulation*, Subpart 8.001, the form should document why a required source was not used.

The sample at EOUSA contained 74 "credit card purchase request" purchases. Seventy-two of their 74 purchase request forms had no response recorded to the question concerning the use of required sources. Two forms were marked that required sources were not used. Further, we found no justification on any of the 74 forms indicating the reason for not using a required source. Of the 72 forms not marked yes or no, 29 were marked "small business," 2 were marked "small and disadvantaged," 2 were marked "woman owned," 21 were marked "other," and 18 purchases had no boxes checked on the form. In our opinion, simple changes in the procurement forms would help document the intent of Subpart 8.001 of the *Federal Acquisition Regulations* when a decision was made not to use a required source.

Price Reasonableness. Our testing identified two procurements (\$7,081) where a determination on price reasonableness was required but not performed. Neither purchase was properly documented. The *Federal Acquisition Regulations* indicate that when purchases above a \$2,500 threshold are made, a price reasonableness determination must be made when not using a required source. The intent of the regulation is to ensure that the government gets good value in terms of a reasonable price while considering the time necessary to receive the product or service, the reliability of the product, and the quality of service. Purchasers should get the best buy available that meets the government's minimum requirements (*GSA SmartPay Purchase Card Manual*, Part III.(3)). The first procurement occurred at EOUSA and contained the words "sole source" in the

procurement documentation without any other explanation. In our opinion, the price reasonableness determination should have been made, or the purchaser should have documented that the requirement was not applicable.

The second procurement occurred at the Eastern District of Tennessee. The purchase was not from a required source, and the dollar amount of the purchase was greater than \$2,500. We examined the district office’s documentation to see if any vendor names and amounts were listed to document that a price comparison was made. However, we found no specific documentation supporting that the purchaser had made a price reasonableness determination for the procurement.

Prohibited and Recurring Purchases. We found 18 transactions (\$11,872) in the sample of 427 purchase card transactions for items purchased that were prohibited according to EOUSA’s purchase card guidelines. The guidelines stipulate that printing and telecommunications expenses are not allowed to be paid using a government purchase card. EOUSA’s Assistant Director of Telecommunications responded that the four telecommunications related purchases at EOUSA were made with the purchase card because his procurement staff can use the card as a payment mechanism for this type of transaction. Our review of the documentation concluded that the telecommunication purchases were legitimate, justified for the USAOs’ needs, and could have been purchased using a different form of payment other than the purchase card. The details of the test results are shown in the following table.

Prohibited and Recurring Items Purchased Using A Purchase Card

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Telecommunications purchased on purchase card		1			4	3		8
Telecom goods/services by warranted C.O. assigned to TTD	4							4
Printing on a purchase card						2		2
Reoccurring monthly charges on a purchase card	4							4
Totals	8	1	0	0	4	5	0	18

Source: Data based on OIG analysis of purchase transactions.

Other Documentation Issues. Blanket funding allows agencies to obligate funds for repeated small purchases. When blanket funding is issued

by the budget officer, the budget officer's signature is not required for each related purchase. However, each repeated purchase using the blanket-funding procedures is required to be approved in advance using a procurement form. In testing purchases at the District of New Mexico, we found the blanket-funding form used included the date when the authorization would expire and the dollar limit for a category of purchases, such as consumable supplies. This same blanket-funding document was then photocopied and used again for future purchases, but without the purchaser obtaining a new approving officer's signature. The purchaser or the procurement staff should have kept a copy of the original blanket-funding document and used the copy to complete a new procurement form for each future purchase.

Also in the District of New Mexico, one transaction where a blanket obligation of \$1,000 for consumable supplies was established using a form titled "Request for Consumable Supplies." The blanket funding was intended to be in effect for the first quarter of FY 2001. However, the document was altered without being initialed by the approving officer. The change altered the effective period from the "first quarter" to "all year." The actual purchase took place on September 28, 2001, almost a full year after the date the obligation was created. The payment occurred in FY 2002 using a government purchase card. For this procurement to be proper, the procurement staff should have obtained the signature or initials of the approving officer acknowledging the changes made on the procurement form.

In the sample at EOUSA, we found 6 procurements out of a sample of 222, totaling \$3,569, not documented with a separate procurement authorization form. We observed the payment of invoices for purchases with no more support than the budget officer's initials on the invoice. In addition, there was no separate documentation of an approving officer's authorization. For these procurements, a blanket-funding document was created for minor repairs and alterations to occupied leased space. In addition, the invoices reviewed had been signed and dated; however, the approval, certification of available funds, and receiving of the individual requests for repairs or modifications were not obvious. A standard procurement form, such as the one recommended in Finding 2, should be used as support documentation for the acquisition of minor repairs and alterations to leased space even if there was a blanket obligation document for that category of expense.

At the District of Utah, we identified three instances where items were added to previously approved procurement forms. The added items were not approved and available funding was not certified. The procurement staff explained that the reason for adding items to an approved order was to

restock office supplies. On one of the procurement forms, for example, in a different handwriting, "miscellaneous supplies for office use" was added to the procurement form without providing the description, quantity, or total price. The total amount of the added items was \$491.98. This purchase did not adhere to procurement regulations requiring purchasing goods with prior written approval.

Also in the District of Utah, we observed 13 of the 208 purchases where the procurement authorization form was not completed properly. The quantity, description, unit price, and total amount were not completed for any of the items purchased. These 13 purchases totaled \$15,039. For these purchases, it appeared that the approving officer and budget officer had signed the purchase request without knowledge of the specific details of the goods and services to be purchased. Each of the forms had some form of a description such as "multiple supplies for all four floors" or "miscellaneous supplies needed for office use." To comply with established internal controls, approving officers and budget officers should not approve requests that have incomplete data for the description, quantity, and dollar amount of the items to be purchased. This situation creates a higher risk that fraud could occur, especially if no subsequent review is performed. A purchaser could use these approved purchase requests by adding personal items or increasing the quantity of items ordered and converting them for personal use.

Receiving

Each of the sampled purchases in this audit was reviewed to determine if the documentation was marked as received, signed, and dated by someone in the office. Some offices used a rubber stamp to indicate the physical receipt of purchases. One office, the Southern District of Florida, designed its procurement form to contain a specific section for evidence of receipt of goods and services.¹⁰

Of the 1,517 total sampled purchases, we found 90 receiving errors, an overall error rate of 6 percent. We believe that a standard comprehensive procurement form with a signature line for documenting the receipt of goods and services, such as the one used in the Southern District of Florida, should be developed and used by USAOs.

¹⁰ In our judgment, the procurement form used by the Southern District of Florida is in many respects superior to the forms used by other USAOs. The form is discussed in more detail in Finding 2 and is provided in Appendix II.

Payment for Purchases

The scope of our audit involved sampling payments to vendors from four data sources containing purchase card transactions, electronic fund transfers, third-party drafts, and Treasury checks. The four data sources contained a total of \$155,048,146 in purchases for FY 2002. The seven offices in our sample paid \$31,726,084 for purchases of goods and services. From that amount, we sampled 1,517 payments totaling \$2,755,123.

Differences Between Amounts Owed and Amounts Paid. At EOUSA, three Treasury checks were issued by JMD for EOUSA for dollar amounts in excess of the amounts EOUSA requested. In response to our inquiry in June 2003, EOUSA staff reviewed the transactions, determined the cause, and obtained a prompt refund of \$6,332.51.

In five other transactions in the sample, a difference was observed between the amount paid and the amount billed by the vendor. The dollar amounts of the errors found were small, but they show the need for careful review of the documents before making the payments.

Delegated Payment Limits Exceeded. When reviewing electronic fund transfers at EOUSA, we discovered one payment for \$124,176 that exceeded the subcertifier's \$50,000 delegated payment limit.¹¹ For transactions where the amounts are in excess of the subcertifier's delegated payment limit, the transaction should have been rejected by the FMIS2+ accounting system and subsequently paid by JMD. Our review of the file for this purchase confirmed that the transaction was for a legitimate government use and had been properly approved by an approving officer. At the exit conference on September 11, 2003, the Lead Budget Analyst, Resource Management and Planning Staff, EOUSA, confirmed that a subcertifier's delegated payment had been exceeded and that the FMIS2+ system had been fixed and tested to reject the processing of payments for amounts exceeding delegated limits.

We performed another audit test to determine if the dollar limits of the contracting officers' authority, which was stated on their Certificates of Appointment (SF-1402), had been exceeded on the sampled procurements. We found no procurements where the contracting officer's delegated authority was exceeded. However, we found unreasonable and

¹¹ A subcertifier is an accountable officer designated by a U.S. Attorney to make electronic fund transfers to vendors from the Financial Management Information System (FMIS2+) accounting system.

unquantifiable language on those certificates. The language on each of the Certificates of Appointment stated that the dollar limits of their authority were "\$2,000 for acquiring construction/alteration or renovation services, open market purchases up to \$25,000, up to \$100,000 for litigative consultants and expert witnesses only, and up to \$500,000 for purchases on Federal Supply Schedules and DOJ contracts." In addition, the certificates stated, "There is no dollar limitation on purchases made from UNICOR, NIB/NISH OR FEDSTRIP."¹²

To inquire further about the unquantifiable language on the certificates, we spoke with an Assistant Director at EOUSA and asked what the terminology of "no dollar limitation" meant. The Assistant Director replied that JMD had a database containing all contracting officers in the DOJ's Offices, Boards, and Divisions and that the dollar limitations in that database for "no dollar limitation" was recorded as \$9,999,999,999 for each purchase made from UNICOR, NIB/NISH, or FEDSTRIP. The large figure was used because the database would not accept alphabetical characters ("no dollar limitation") in a numeric field.

From a listing of contracting officers provided by JMD, we identified 276 USAOs' contracting officers in the database, each with a \$9,999,999,999 dollar limit on procurements. As stated in *Federal Acquisition Regulation*, Chapter 1, Subpart 1.602-1, "Contracting officers may bind the Government only to the extent of the authority delegated to them." Because of this excessive procurement authority, we believe that the wording on the Certificates of Appointment needs to be restated, establishing a reasonable dollar limitation for purchases from UNICOR, NIB/NISH, and FEDSTRIP.

Missing Invoices. Of the purchase card transactions sampled, we found 50 purchases (\$36,664) out of a total of 427, or 12 percent, that were not supported by an invoice. One contracting officer explained that if orders with a government agency are placed over the Internet, the vendor would not transmit an invoice. Even in those cases, the purchaser should try to obtain an invoice. When no invoice supported the purchase, there was no documentation of what was actually ordered and received and the risk of fraud or misuse of government funds increases. This issue is a "red flag" when discovered by the EARS reviewers.

¹² UNICOR is the name of the Federal Prison Industries within the Bureau of Prisons. NIB is the National Industries of the Blind, and NISH stands for the National Industries for the Severely Handicapped. FEDSTRIP stands for federal standard requisitioning and issuing procedures used at the General Services Administration with federal supply schedules.

The following table shows the distribution of offices sampled where purchases were made without a supporting invoice.

Procurements Without an Invoice

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Total
No invoice	24	2	2	9	8	3	2	50

Source: Data based on OIG analysis of purchase transactions.

Taxes Paid on Goods and Services. At 4 of the 7 sites sampled, we identified 20 purchases where the vendor charged some form of a state or local tax. As stipulated by the *Federal Acquisition Regulations*, the government should not pay state and local taxes. While the number of transactions with taxes paid was small in comparison to the overall sample, purchasers are responsible for ensuring that the tax-exempt status is honored by the vendor.

The following table describes the results of our tests for taxes paid.

Taxes Paid on Purchases

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Tax included (all litigative services)		6						6
Sales tax included	2	2				1	5	10
Gross receipts tax included		4						4
Totals	2	12	0	0	0	1	5	20

Source: Data based on OIG analysis of purchase transactions.

Incorrect Draft Number or Draft Date On Supporting Documents. According to the *Third Party Payment Policies and Procedures Handbook*, Section 6.e(3)(b), the payment clerk should record the draft number and draft date on the invoice or supporting documentation and mark the documentation "PAID" when purchases are paid by a third-party draft. This procedure eliminates duplicate payments and provides an audit trail to the third-party draft when questions arise about payments. This audit identified six purchases at the District of Utah, the District of Oregon, the

Eastern District of New York, and the Eastern District of Tennessee where the draft number was not included on the supporting documents. We also found 11 transactions at three sites where the date of the draft or the correct date of the draft was not shown on the supporting documents. These 17 errors occurred in 14 transactions. This is a low error rate (1.9 percent) and indicates a good record for the USAOs considering the 730 drafts (\$336,236) occurring in the sample.

Voided Drafts. In addition to the sample of 730 paid third-party drafts, our testing included reviewing 127 voided drafts to determine if the drafts were voided in compliance with the *Third Party Payment Policies and Procedures Handbook*. Voided third-party drafts were written only at the USAOs. No drafts were written by EOUSA, as those were written by JMD. The audit tests revealed a total of 109 deficiencies at the District of Oregon, the District of Utah, the District of New Mexico, the Eastern District of Tennessee, and the Eastern District of New York. On 16 transactions, the original "PAID" notation was not crossed out on the voucher or procurement form. Thirty voided drafts did not have the word "VOID" written or stamped on the signature block area on the face of the draft. We identified 37 instances where the numerical log of voided drafts was not signed and dated by the disbursing officer, 20 instances where the voided draft information was not recorded in the numerical log, and 6 instances where the original voided draft and all copies of the draft were not retained in the numerical log.

Review of Monthly Purchase Card Statements. As stated in the *Government Purchase Card Program for Simplified Acquisition*, Section 5.F, "the Purchase Cardholder and the Approving Official must review, sign, and date these monthly statements." Therefore, we reviewed FY 2002 purchase card statements issued monthly to purchase card users.

Our judgmental sample included at least one purchase cardholder from each of the seven sites and we reviewed all monthly statements issued to that cardholder. A total of 113 monthly purchase card statements were reviewed. If no purchases were made during the statement period, no statements would be issued by BankOne to the purchase cardholder. Of the statements reviewed, 95 statements were not dated as reviewed by the cardholder and 73 were not dated as reviewed by the approving official. The *Government Purchase Card Program for Simplified Acquisition*, Section 0.A.(3), states that the purchase cardholder must verify, sign, and date the monthly statement and forward it, along with all documentation, to the approving official within 15 days of the monthly statement date. The approving official must then verify, sign, and date the monthly statement and submit it, along with all supporting documentation, to the budget officer

for reposting.¹³ Since most of the statements were not dated by either the cardholder or approving official, no determination could be made concerning timely reviews by approving officials and cardholders.

When questioned about the lack of dates on the monthly statements, a typical response from five cardholders interviewed at the Southern District of Florida was that there was no line on the statement to fill in the date. However, a line was printed on the monthly statement for the cardholder's and approving official's signatures.

A more significant deficiency was 15 monthly purchase card statements that were not signed by the approving officials at EOUSA. This lack of review is not in compliance with the *Government Purchase Card Program for Simplified Acquisition*. Without a careful review of purchase card purchases and knowledge of what was intended to be purchased, the risk of fraud, loss, and undetected error increases. This is the same issue that occurred in the recent fraud at the Central District of California.

Approving officials at each district office and EOUSA receive an account cycle report from BankOne on a monthly basis for their assigned purchase cardholders' activity. The account cycle report contains a listing of purchase cardholders and all transactions occurring during the previous billing cycle. According to the *Government Purchase Card Program for Simplified Acquisition*, the approving official must review, initial, date, and maintain the account cycle reports for audit purposes. The account cycle report is an additional check for approving officials to review purchases made by their purchase cardholders. Since monthly statements are not sent out when no purchase activity occurred and since a cardholder may not forward a monthly statement to the approving official, the account cycle reports may be the only record of purchases that an approving official sees.

Our audit testing included reviewing 1 of the 12 monthly account cycle reports at each site visited. The reports at EOUSA, the Eastern District of Tennessee, and the District of Utah were not initialed or dated, the report at Southern District of Florida was not dated, and the report at the District of New Mexico had a questionable date — dated earlier than the date the office had stamped that the report was received. The reports at the District of Oregon and the Eastern District of New York were initialed and dated as required.

¹³ Reposting is an accounting process where purchase card transactions that were initially charged to a common account are reposted to a more specific appropriation account.

Comparison of Invoice to Supporting Documentation. When looking at each sampled payment, our audit procedures compared the information in the output from the four data sources to the associated invoice and supporting documentation. We looked for consistency in the vendor name and amount paid, determined if alterations were made on supporting documents, and looked for a "PAID" indication on the documents to prevent duplicate payments.

We found several instances where the dollar amounts, quantities, or other details on the supporting documentation were altered on the procurement documents. In that situation, auditors could not determine if the alterations were made before or after the approving officer had signed the document because there was no signature nor date next to the changes.

The following table lists details of the discrepancies found.

Documentation Supporting Purchases

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Vendor name differences on supporting documents, invoice, and draft						1		1
Invoice or supporting documents not marked PAID		2			1		1	4
Alteration(s) made to procurement documents	8	4			1	1		14
Documentation not supporting amount paid	1					1	1	3
Totals	9	6	0	0	2	3	2	22

Source: Data based on OIG analysis of purchase transactions.

Accountable Property

Part of our audit tests for vendor payments involved physically locating accountable property when the transactions in the samples included accountable items. Sampling from the reverse direction, we also selected

and located a maximum of 20 items from the ARGIS Property Management System that were procured in FY 2002.¹⁴

At EOUSA, five accountable property items, including computer and communications equipment, could not be located because the documentation did not contain the location of the items.

The following table documents the results of the property records tests.

Property Not Located or Entered into the Property Records

	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Property item not accurately entered into ARGIS property system					1			1
Property item not input into ARGIS property system	3				1	2		6
Items not physically located	5							5
Totals	8	0	0	0	2	2	0	12

Source: Data based on OIG analysis of property purchases.

Conclusion

Overall, the USAOs’ system of procurement and payment controls and procedures was generally adequate to reduce the risk of fraud, loss, or undetected error. Further, the number of instances of noncompliance with established acquisition and payment procedures at the seven offices tested was relatively low. Nonetheless, noncompliance with established procedures and inadequate management oversight can lead to fraudulent activity, as demonstrated by the two recent fraud cases.

We believe that EOUSA should review the EARS acquisition management audit program to ensure that tests are included that will detect and deter the same types of deficiencies identified in this audit. In addition, since EARS reviews are conducted on a 3-year cycle, the reviews should

¹⁴ ARGIS (not an acronym) is the name of the JMD developed property management system used by the USAOs to track property.

sample procurement activity in all three years to reduce the opportunities for fraudulent activity in previously non-reviewed years.

If the USAOs' administrative personnel follow the prescribed procedures, maintain separation of duties, and carefully review their procurement documents, the types and numbers of errors we found should be reduced. Implementing the following recommendations will help USAOs strengthen their system of procurement and payment controls and procedures.

Recommendations

We recommend that the Director of the Executive Office for United States Attorneys:

1. Coordinate with the JMD Finance Director to ensure that subcertifiers cannot bypass their delegated payment limits in the FMIS2+ accounting system.
2. Coordinate with the JMD Finance Director to determine if the monthly BankOne purchase card statements can be modified to add a line for the date of review by the cardholder and the approving official.
3. Coordinate with the JMD Finance Director to redesign and reissue the Form OBD-234, canceling previous versions, to designate all accountable officers including the budget officer.
4. Establish reasonable dollar limits for purchases from UNICOR, NIB/NISH, and FEDSTRIP and indicate those dollar limits on the Contracting Officers' Certificates of Appointment.
5. Require that the EARS review of the EOUSAs' acquisition management program include tests to detect the same types of deficiencies as identified by this audit.
6. Require that the EARS reviews include testing of a USAO's activity for all years since its prior review.

2. **LOCALLY DEVELOPED PROCUREMENT FORMS**

The procurement authorization forms used by the USAOs to request, approve, and document purchases are inconsistently designed, and some forms do not contain important elements as required by the procurement regulations. As a result, acquisition requirements are not being met and are not properly documented.

While reviewing 1,517 procurement transactions at the seven USAOs, we found that each office used different, locally developed procurement forms. With the exception of the Southern District of Florida, the procurement forms reviewed did not contain required elements, such as signatures, consideration of required sources, and documentation of the receipt of goods and services.

When testing transactions, we analyzed whether the various procurement forms in use documented that required sources were first considered before the purchase of goods and services. As prescribed by *Federal Acquisition Regulation*, Subpart 8.001, required sources must be used or first considered for all purchases, regardless of the dollar amount ("whether a \$2 purchase or a \$25,000 purchase," as quoted from the instructions for the *Government Purchase Card Program for Simplified Acquisition*, paragraph 8.E.). The sequence must follow the priority given in *Federal Acquisition Regulation*, Subpart 8.001. If purchases cannot be made from the required sources, they can then be made from commercial sources.

Two of the seven procurement forms reviewed contained a list of the required sources, but there was no place on the form to indicate that those sources were actually considered. Forms used at the District of New Mexico and the District of Utah contained a column of check boxes listing the required sources in the specified sequence with a box checked intending to explain that the source was considered. At EOUSA and the Eastern District of Tennessee, the forms contained the statement: "GSA mandatory source (Y/N)? If yes, provide additional justification below if using a source other than GSA." However, when the purchaser answered the question with a yes, there was no indication given to document that the purchaser had actually checked availability with the required sources, and no justification or waiver was given for why the required sources were not ultimately used. Further,

four forms did not specifically state that a justification or a waiver had to be given or attached if required sources were not used.

In our opinion, a comprehensive procurement form should contain several lines for the purchaser to write the required justifications or give instructions to attach a waiver when required by the regulations. There should also be a signature line or initial box for the purchaser to document that they have actually considered required sources before purchasing from commercial sources.

Another improvement that should be made to the procurement forms in use is the documenting of the receipt of goods and services. Two of the forms did not have a place to record the receipt of goods by signing and dating. We observed that some of the offices used a variety of rubber stamps containing statements similar to "I certify that goods and services were received" with a space for the receiver to record their signature and the date received. However, in our opinion, an ideal procurement form should contain a statement that the receiver verified the existence and quantity of the specific goods and/or services received for each item on the packing slip.

In order to meet acquisition requirements, a single comprehensive procurement form should be designed and used throughout the USAOs, with space to record required elements. The elements listed below are applicable to most purchases, regardless of payment method used or the goods or services purchased:

- Vendor name, address, phone number, and contact person.
- List of required purchase sources in priority order per *Federal Acquisition Regulation*, Subpart 8.001.
- Justification and/or waivers when a required source was not used.
- Justification for not using a small business when a commercial source was used and the purchase amount was over \$2,500.
- Statement that a notice was placed in a public place when a commercial source purchase was made and the cost was over \$10,000.
- Price quotes were obtained from three vendors and a price reasonableness determination was made.

- Description of goods and services to be purchased, including quantity.
- Total dollar amount of goods and services to be purchased.
- Purchase cardholder name.
- Approving officer signature and date.
- Statement signed by the budget officer that “funds are, or are not, available” or the statement “I certify that funds are available.”
- Budget officer signature and date.
- Receipt of goods signature and date and verification of counts of items.

Southern District of Florida’s Procurement Form

From our review of the various procurement forms in use at our seven test sites, the Southern District of Florida’s procurement form was the best because it contained virtually all of the required elements.¹⁵ The Southern District of Florida uses one form, entitled “Litigation and/or Procurement Request,” for all purchases and attaches another one-page form, entitled “Credit Card Purchase Request,” for purchases that are made using a government purchase card. The Litigation/Procurement Request form is completed for every purchase, even when blanket funding; a blanket purchase agreement; a purchase order; or a Requisition for Equipment, Supplies or Services (Form OBD-186) was being used.

Pages 2-4 (Procurement Checklist and Competition/Sole Source Worksheet) are attached to the Litigation/Purchase Request form for each transaction. Page 2, the Procurement Checklist, is used to document contractor information, open market information, justification for not using a small business, and accessibility standards. Page 3 is a continuation of page 2 and documents undue burden; energy efficiency; Greening the Government (*Federal Acquisition Regulation*, Subpart 23.404); and price reasonableness, including the price reasonableness basis. Page 4, the

¹⁵ See Appendix II for a copy of the Southern District of Florida’s form.

Competition/Sole Source Worksheet, documents price quotes from three vendors and documents the sole source justification, when required.

In our view, the advantages of using the Southern District of Florida's procurement form are:

- The form thoroughly documents the required data elements for a purchase transaction.
- The form has the approving officer's name typed or printed in a box — since some signatures are hard to read/interpret.

We recognize that some of the USAOs' purchases are made using blanket purchase agreements, blanket funding, and purchase orders that are documented on specific forms, such as the Form OBD-186 (Requisition for Equipment, Supplies or Services). However, we believe that a single standardized procurement form should be used in conjunction with the other ordering forms.

Conclusion

If only one accurately structured and comprehensive procurement form was used, such as the one used by the Southern District of Florida, there would be less opportunity for the purchaser to inadvertently skip a procurement requirement. Also, there would be fewer opportunities for noncompliance with the federal government's acquisition requirements if each of the USAOs were to use one standard procurement form with all the required procurement elements that apply to most purchases.

Recommendation

We recommend that the Director of the Executive Office for United States Attorneys:

7. Design and use one standard procurement form that addresses all procurement requirements, specifically the items listed above from the *Federal Acquisition Regulations* and documents the process from the authorization to the actual receipt of the goods and services purchased.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by Government Auditing Standards, we tested selected transactions and records at six USAOs and the EOUSA to obtain reasonable assurance about the USAs' compliance with laws and regulations that, if not complied with, we believe could have a material effect on program operations. Compliance with laws and regulations applicable to vendor payments is the responsibility of the USAOs' management.

An audit includes examining, on a test basis, evidence about compliance with laws and regulations. The specific regulations for which we conducted tests are contained in the relevant portions of the following guidance set out by the Treasury Department, the Comptroller General, and the Office of Management and Budget.

- The U.S. Treasury Manual prescribes regulations to protect the government from fraud and loss, to take steps to discover fraud and attempted fraud involving expenditures, and to determine ways to prevent and detect fraud. (Authorized by 31 U.S.C. §321, "General Authority of the Secretary.")
- The Comptroller General's *Standards for Internal Control in the Federal Government* contains the standards for establishing and maintaining systems of internal control for federal agencies. (Authorized by 31 U.S.C. §3511, "Prescribing Accounting Requirements and Developing Accounting Systems.")
- Office of Management and Budget Circular A-123, *Management Accountability and Control* (Revised), provides guidelines for improving accountability and establishing management controls. (Authorized by 31 U.S.C. §3512, "Executive Agency Accounting and Other Financial Management Reports and Plans.")

Our tests indicated that, for the transactions tested, the USAOs generally complied with the provisions of applicable laws and regulations. With respect to those transactions not tested, nothing came to our attention otherwise that caused us to believe that the USAOs were not in compliance with the applicable laws.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit objective was to determine whether the USAOs' controls and procedures over the purchase and payment for goods and services using third-party drafts, government purchase cards, electronic fund transfers, and Treasury checks were adequate to ensure that vendor payments were made in accordance with the policies prescribed by EOUSA, the *Federal Acquisition Regulations*, and other relevant authorities.

Payments resulting from the use of the government's MasterCard for official travel were excluded from our audit, because the traveler, not the government, makes the payment.

Our audit was performed in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States and included tests necessary to accomplish our audit objective stated above.

During the audit, we selected two extra large districts, two large districts, and two medium districts for testing. The Eastern District of New York (Brooklyn) and the Southern District of Florida (Miami) were the extra large offices. The District of New Mexico (Albuquerque) and the District of Oregon (Portland) were the large offices. The District of Utah (Salt Lake City) and the Eastern District of Tennessee (Knoxville) were the medium offices. EOUSA in Washington, D.C., was also selected with the expectation of reviewing large dollar value purchases.

The scope of audit included tests of transactions occurring from October 2001 through September 2002 (FY 2002). We conducted site visits from November 2002 through April 2003, and gave an exit conference in September 2003.

Also required by the *Government Auditing Standards* is an assessment of the reliability of computer-processed data when using data from computer generated systems. In performing this audit, we obtained lists of payments for purchases from EOUSA for each of the seven offices tested to generate random samples. The payment records came from computer-generated systems maintained by JMD containing third-party drafts, purchase card purchases, electronic fund transfers, and Treasury checks.

This audit was more limited than would be necessary to express an opinion on JMD's computer-processed data and associated payment systems. Rather, the audit was to assess the controls over vendor

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payments made by EOUSA and the USAOs from those systems. Therefore, we do not express an opinion on JMD’s computer-generated systems or data. However, JMD’s computer-generated data was compared to other supporting documentation at EOUSA and the district offices. Therefore, we believe the data used was adequate for sampling, testing, and background reporting purposes.

The table below provides details of the number of transactions by payment type in the universe at our seven test sites.

Transactions in Universe by Location and Payment Type

	Third-Party Drafts	Purchase Card Transactions	EFTs	Treasury Checks	Total Transactions
District of New Mexico	2,033	943	420	N/A ¹	3,396
District of Oregon	2,631	415	31	64	3,141
EOUSA	57	1,277	1,734	182	3,250
Eastern District of New York	4,212	1,248	1,488	458	7,406
Eastern District of Tennessee	1,832	682	49	2	2,565
District of Utah	1,401	1,164	5	3	2,573
Southern District of Florida	2,904	716	4,303	168	8,091
Totals	15,070	6,445	8,030	877	30,422

Source: Data provided by EOUSA and JMD.

¹ No Treasury checks were obtained from EOUSA.

The criteria that must be followed when purchasing goods or services in the USAOs is the *Government Purchase Card Program for Simplified Acquisition*, the *Department of Justice Third Party Payment Policies and Procedures Manual*, the *Federal Acquisition Regulations*, the *Justice Acquisition Regulations*, the applicable DOJ Order on delegation of authority, and EOUSA’s policies and procedures on procurements and payment limits.

At each of the audit sites, we sampled a minimum of 200 randomly selected payments and tested these transactions against the purchasing criteria stated above. The sampling methodology included judgmentally selecting additional payments when issues came to our attention that appeared to require further review. The result of these combined procedures was seven separate samples totaling 1,517 payments representing 5 percent of the universe of 30,422 transactions.

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The following two tables show a breakdown of the sampling methodology by location.

OIG Sampling Methodology

Transactions	Executive Office for United States Attorneys	District of New Mexico	District of Oregon	Eastern District of New York	Eastern District of Tennessee	District of Utah	Southern District of Florida	Totals
Random	218	209	200	215	202	202	217	1,463
Judgmental	4	30	8	0	6	6	0	54
Totals	222	239	208	215	208	208	217	1,517

Source: OIG developed data based universes provided by EOUSA and JMD.

Transactions in Sample by Location

	Third-Party Drafts Sampled	Purchase Card Transactions Sampled	EFTs Sampled	Treasury Checks Sampled	Total Transactions Sampled
District of New Mexico	99	100	40	0	239
District of Oregon	169	38	1	0	208
EOUSA	5	96	103	18	222
Eastern District of New York	120	36	44	15	215
Eastern District of Tennessee	147	55	6	0	208
District of Utah	117	85	5	1	208
Southern District of Florida	73	17	110	17	217
Totals	730	427	309	51	1,517

Source: OIG developed data based universes provided by EOUSA and JMD.

The total dollars audited was \$2,755,123, or 8.7 percent of the \$31,726,084 disbursed at the test sites. In addition, EOUSA reported that all 94 district offices and EOUSA purchased over \$155 million in goods and services in FY 2002 from vendors using the four payment types previously stated.

The following two tables provide additional details on the dollar amounts and types of payments made by the USAOs in FY 2002.

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Dollar Amount of Transactions in Universe by Location

	Dollar Amount of Drafts	Dollar Amount of Purchase Card Transactions	Dollar Amount of EFTs	Dollar Amount of Treasury Checks	Dollar Amount of Transactions
District of New Mexico	\$810,491	\$409,696	\$224,134	N/A ¹	\$1,444,321
District of Oregon	748,938	328,740	202,226	46,955	1,326,859
EOUSA	6,828	833,668	10,131,283	2,333,033	13,304,812
Eastern District of New York	2,540,119	773,534	2,133,575	1,181,041	6,628,269
Eastern District of Tennessee	658,158	237,396	104,593	14,764	1,014,911
District of Utah	491,646	377,697	94,168	31,843	995,354
Southern District of Florida	2,106,645	567,387	3,758,288	579,238	7,011,558
Totals	\$7,362,825	\$3,528,118	\$16,648,267	\$4,186,874	\$31,726,084

Source: Data provided by EOUSA and JMD.

¹ No Treasury checks were obtained from EOUSA.

Dollar Amount of Transactions in Sample by Location

	Dollar Amount of Drafts Sampled	Dollar Amount of Purchase Card Transactions Sampled	Dollar Amount of EFTs Sampled	Dollar Amount of Treasury Checks Sampled	Dollar Amount of Transactions Sampled
District of New Mexico	\$34,677	\$58,777	\$40,041	\$0	\$133,495
District of Oregon	40,605	15,052	236	0	55,893
EOUSA	434	48,882	1,210,515	562,368	1,822,199
Eastern District of New York	66,928	12,558	61,677	6,065	147,228
Eastern District of Tennessee	75,361	13,867	23,977	0	113,205
District of Utah	41,553	22,851	94,168	16,401	174,973
Southern District of Florida	76,678	18,062	126,238	87,152	308,130
Totals	\$336,236	\$190,049	\$1,556,852	\$671,986	\$2,755,123

Source: OIG developed data based universes of transactions provided by EOUSA and JMD.

In this audit, we reviewed 10,111 documents and interviewed 153 personnel involved in the acquisition and payment processes that included administrative officers, approving officers, approving officials, budget officers, purchase cardholders, disbursing officers, electronic fund transfer submitters and subcertifiers, EOUSA's Chief Financial Officer and Chief Operating Officer, various other officials within the USAs' organization, and key personnel in JMD. Interviews included a series of general questions covering payment methods, specific questions regarding the individual

APPENDIX I

payment mechanisms and procedures, delegated authority limits, security of unused drafts, responsibilities of specific personnel in the purchase and payment of goods and services, separation of duties, location of accountable property, and applicable training received.

The analysis of the 1,517 purchase transactions included determining whether separation of duties occurred on each transaction. We also looked to see if applicable individuals were designated as accountable officers by their respective U.S. Attorney and signed a Form OBD-234 acknowledging personal liability for loss or improper payment of funds.

When reviewing each purchase transaction, we verified that proper approvals were given prior to the purchase, the amount paid was supported by an original invoice, required sources were used and documented as being first considered, receiving documentation showed a signature and date of receipt, taxes were excluded from payments, and the goods and services purchased reasonably met the USAOs' official needs. Our tests also included a review for split purchases, duplicate payments, delegated procurement limits that were exceeded, and fraudulent transactions. Transactions were then tested from the reverse — the documents in the file cabinet back toward the data in the output reports provided by EOUSA. These transactions were judgmentally selected from the USAO's files and worked back through the acquisition process up to the procurement form that contained documentation of approval and obligation.

While testing transactions paid by a government purchase card, we reviewed cardholders to see who exceeded their delegated procurement authority limits and that the cardholders were only making purchases that had been properly approved by an approving officer. We also checked to see if items prohibited by the *Government Purchase Card Program for Simplified Acquisition* guidelines were procured and then verified that the supporting documents corresponded to the actual charges listed on the monthly purchase card statement. Another test performed was to determine if cardholders were properly retaining all supporting documents and reconciling all transactions to their monthly purchase card statements by signing and dating the monthly statements.

For transactions paid by third-party drafts, the disbursing officer's signature on the draft was reviewed to determine that only designated individuals were signing the third-party drafts. We also verified that the disbursing officer was not the same person who signed the procurement form as the approving officer or budget officer for that transaction. Our tests verified that copies of the drafts were retained in proper locations as

APPENDIX I

set forth in acquisition and payment regulations, supporting documentation contained all required paid draft elements, and the drafts were printed with a computer printer and not handwritten. Another test consisted of comparing the amount and vendor name on the draft to the amount and vendor name on the support documents.

Voided drafts were reviewed to make sure that the word "VOID" was stamped or written over the signature line on the face of the voided draft and that the voided draft information was properly recorded in the numeric log. Audit testing also looked for retention of copies of the drafts. Further, a sample of third-party drafts paid to disbursing officers was reviewed to verify that disbursing officers were not signing draft payments payable to themselves.

In reviewing transactions paid through electronic fund transfers, in addition to other previously mentioned tests, we checked that separation of duties occurred by comparing the submitter's User ID to the subcertifier's User ID. Electronic fund transfer transactions were reviewed to see if delegated payment limits were exceeded.

For monthly purchase card statements, audit testing included a review for signatures and dates of review by the cardholder and the approving official. Additional testing included a review for notations made by the cardholder regarding credits or items to be credited. When we observed notations on the monthly statements, we followed up to ensure credits were taken and received.

For the transactions involving accountable property, purchased property was traced to the ARGIS property management system controlled by JMD and physically verified that those items were in the USAOs. A sample not to exceed 20 items purchased in FY 2002 for each USAO site tested were selected from the ARGIS records tested and located as well.

While at each audit site, audit testing included a review of the latest EARS report and the associated district office's response to look for vendor payment issues and deficiencies that were not corrected.

SOUTHERN DISTRICT OF FLORIDA'S PROCUREMENT FORM



U.S. ATTORNEY'S OFFICE
Southern District of Florida



LITIGATION and/or PROCUREMENT REQUEST

Vendor Name:		Auth No.:	
Vendor Address:		Tax ID #	Auth Date
City/State		Zip:	SOC:
Vendor Phone:		Fax No.	Initial:
For Purchase Orders (any request over \$2,500) : Check for business classification			Delivery Date:
<input type="checkbox"/> Small <input type="checkbox"/> Other than Small <input type="checkbox"/> Disadvantaged <input type="checkbox"/> Woman-Owned			
Case Name:		Program Code	Date
Case No.:		Project Code	
Case Type: (X one) <input type="checkbox"/> Direct <input type="checkbox"/> OCDETF <input type="checkbox"/> Asset Forf. <input type="checkbox"/> HIDTA <input type="checkbox"/> HCF <input type="checkbox"/> HCF Project Other:			
Transcripts <input type="checkbox"/> DEPO <input type="checkbox"/> Grand Jury <input type="checkbox"/> Trial <input type="checkbox"/> Regular <input type="checkbox"/> Expedited <input type="checkbox"/> Daily <input type="checkbox"/> Hourly			
Description of Service	Est. Qty.	Cost	Per (Unit)
			Amount
			Total
JUSTIFICATION (required): Funds are / are not available Budget Officer _____			
REQUESTER		AUTHORIZATION	
AUSA Signature:		Section & Section Chief:	Date
AUSA:	Ph#		
Delivery Address		Division Chief:	Date
Secretary:	Ph#		
INSTRUCTIONS FOR REQUESTOR:			
After receiving written authorization number from Fiscal, this form must be FAXED TO VENDOR. Keep this signed copy for your records to avoid any discrepancies in services requested. Make sure to give the vendor a contact phone number.			
INSTRUCTIONS FOR VENDOR:			
Understand that the service and amount hereby stated on this litigation request form is final. Any product or services delivered above this amount will not be accepted for payment. If any portion of this order is incorrect and/or canceled, you must notify the requestor at the US Attorney's Office for proper amendment.			
Vendors must submit an itemized original, invoices with complete name, mailing address, phone & fax number, Federal Tax ID#/SSN and authorization number to constitute a proper invoice upon completion of service/goods.			
Billing Address: U.S. Attorney's Office, SDFL, Attn. Administrative Division, Suite 200, 99 NE 4th Street, Miami, Fl. 33132.			
Receipt of Goods/Services By:		Date:	

Southern District of Florida
Procurement Checklist

_____ Each proposed contractor must be checked against the "List of Parties Excluded from Federal Procurement and Non-Procurement Programs. This can be checked in the publication received in Miami or by web site at <http://epls.arnet.gov>.

This contractor is not excluded per publication dated _____, or Internet site check on _____

_____ Ensure that the Service Contract Act (FAR 22.10) is followed for service that involves the use of 5 or more individuals to perform the required service (movers). Include DOL wage determinations.

_____ Open Market Over \$10,000.00 - Requirement must be posted in a public place within contracting office (attach copy).

_____ Open market purchases over \$2,500.00 must be given to small businesses unless the contracting officer certifies that it is unlikely that 2 or more small business concerns can provide the goods/services at a reasonable price.

Justification For Not Using a Small Business: _____

On this ___ day of _____, 2003 I, _____, as Contracting Officer certify that it is unlikely that 2 or more small business concerns can provide the goods/services required at a reasonable price.

SECTION 508 ACCESSIBILITY STANDARDS *(Contracting Officer to check all that are applicable)*

- 1194.21 Software Applications and Operating Systems
- 1194.22 Web-based Intranet and Internet Information and Applications
- 1194.23 Telecommunications Products
- 1194.24 Video or Multimedia Products
- 1194.25 Self Contained, Closed Products
- 1194.26 Desktop and Portable Computers
- 1194.31 Functional Performance Criteria
- 1194.41 Information, Documentation, and Support

Justification for Non-Compliance of Section 508

It has been determined that the requirement of Section 508 cannot be made for the following reason:

- National Security System
- EIT incidental to the order. The primary purpose of this order is to _____.
- EIT located in spaced frequented only by service personnel for maintenance, repair or occasional monitoring of equipment.

**Southern District of Florida
Procurement Checklist**

(continued)

Would impose an undue burden on the agency. This undue burden is:

- Significant expense and funds are not available.
- Significant difficulty of compliance.

Explain: _____

If an undue burden is other than an increased cost that can be funded, state the alternative means of access that will be provided that will allow the individuals with disabilities to use the information, data or equipment.

Energy Efficient Standby Power Devices

- ___ Is product commercially available, off-the-shelf that uses external standby power devices, or that contains an internal standby power function. (http://www.eren.doe.gov/femp/resources/standby_power.html#preliminary)
 - ___ Does product use no more than one watt in its standby power consuming mode?
 - ___ Is this the product with the lowest standby power wattage? If no, provide justification in file why product that meets energy efficient standby requirement is not being acquired.

Greening the Government (FAR 23.404)

- ___ Is product identified on EPA's list of designated products (<http://www.epa.gov/cpg>)?
- ___ Is the aggregate amount paid for product, or for functionally equivalent products, in the preceding fiscal year \$10,000 or more?

___ The Contracting Officer must determine that the price is fair and reasonable.

I _____, as Contracting Officer have determined that the price for the goods and/or services being requested is fair and reasonable based on the following:

- ___ Market Research and Quotations (see attached).
- ___ Comparison of the proposed price with prices found reasonable on other purchases (list them).
- ___ Comparison with similar items in a related industry(attach).
- ___ Current price lists, catalogs or advertisements.
- ___ My personal knowledge and experience of the item being purchased. Explain: _____

___ Any other reasonable basis. Explain: _____

Southern District of Florida
Competition/Sole Source Worksheet
PRICE QUOTES

	Vendor 1	Vendor 2	Vendor 3
Name of Vendor	_____	_____	_____
Vendor Spokesperson	_____	_____	_____
Date Contacted	_____	_____	_____
Telephone Number	_____	_____	_____
Unit Price	_____	_____	_____
Total Amount Quoted	_____	_____	_____
Discount Terms	_____	_____	_____
Business Designation	_____	_____	_____
Delivery Time Promised	_____	_____	_____
Delivery/Freight Charges	_____	_____	_____

Vendor selected: _____

Justification: _____

SOLE SOURCE JUSTIFICATION

Contracting Officer Signature

Date



U.S. Department of Justice

Executive Office for United States Attorneys

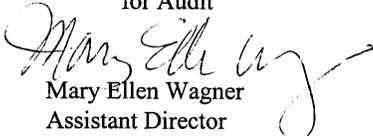
Resource Management and Planning Staff

Suite 8000, Bicentennial Building
600 E Street, NW
Washington, DC 20530
NOV 12 2003

(202) 616-6886
FAX (202) 616-6649

MEMORANDUM

TO: Guy K. Zimmerman
Assistant Inspector General
for Audit

FROM: 
Mary Ellen Wagner
Assistant Director

SUBJECT: Payments to Vendors by United States Attorneys' Offices

The following attachments provides our responses to the recommendations made in the draft audit report on the subject matter referenced above.

If you have any questions or would like to meet to further discuss our responses, please contact me on (202) 616-6886, or David W. Downs, Chief Operating Officer, on (202) 616-6600.

Attachments

cc: George Stendell
Regional Audit Manager
Dallas Regional Audit Office

David Downs
Chief Operating Officer

Trisha Bursey
Assistant Director

Melinda Morgan
JMD Finance Staff

Recommendation 1.

We concur with your recommendation. This past summer, the Justice Management Division (JMD), Finance Staff modified the FMIS2+ system to ensure subcertifiers could not bypass the delegated payment limit presently established at \$50,000.

Recommendation 2.

We concur with your recommendation. The Facilities Management and Support Services Staff (FMSS) has requested through JMD, Procurement Services Staff (PSS) that the purchase card statements be modified to add a line for the date of review by the cardholder and approving official. JMD has contacted Bank One. Bank One indicated that this may require creating a special statement for the Offices, Boards and Divisions (OBD) (unlikely that they will be able to separate for just one Unit). Bank One stated that they will further investigate this request, and informed us that there may be a cost for its implementation. JMD will provide us a response when they receive it, however it may be two to three weeks because of the current process of issuing the new cards. Since this will impact the OBDs, the final decision to implement this request will be at the JMD level.

Recommendation 3.

The Resource Management and Planning Staff will coordinate with JMD's Finance Staff to discuss the redesign and reissuance of the Accountable Officer Signature Form, Form OBD-234. However, as discussed in the September 11, 2003, exit conference, JMD is responsible for the final decision regarding any modifications to this form.

Recommendation 4.

The *Federal Acquisition Regulation*, Chapter 1, Subpart 1.603-2 states in so many words that delegations of procurement authority should be based on the knowledge and capability of the appointee considering the complexity and dollar value of the procurement. UNICOR, NIB/NISH, and FEDSTRIP are the most simple of all procurements. Regardless of dollar value, they do not require competition, set-asides, justifications, advertising or price reasonableness determinations. There is no difference in the procedure based on dollar value. While we do not see the value added by this recommendation, FMSS has requested that JMD, PSS, Acquisition Programs Group (APG) limit the delegated authority to the United States Attorneys' Offices for UNICOR, NIB/NISH, and FEDSTRIP to one million dollars. We also requested the authority for EOUSA components be limited to five million dollars. However, JMD is responsible for the final decision and action.

Recommendation 5.

We concur with your recommendation. The evaluation guide used in the EARS reviews for acquisition management is constantly being updated and revised. It is currently undergoing revision and we will ensure that it includes tests to detect similar deficiencies as the audit.

Recommendation 6.

We concur with your recommendation. The FMSS will expand the recommendation of records to be reviewed to include all years since the prior review of that office.

Recommendation 7.

The JMD, PSS, APG mandates the use of their comprehensive checklist in all acquisitions exceeding \$2,500. They also provide an optional checklist for micro-purchases (<\$2,500) (Attachment 1). While receipt is not addressed in that checklist, it is addressed in the checklist for close out of the file (Attachment 2). The other elements that are provided in the report as applicable to most purchases are also addressed in the requirements of the instructions from the JMD/PSS/APG Simplified Acquisition Desk Reference. We will request that JMD enhance their forms to include the elements from the report listing that will add value to their checklists and required forms. However, JMD is responsible for the final decision and action.

Image Not
Available

U.S. Department of Justice Attachment 2

Justice Management Division

Procurement Services Staff

*Washington, D.C. 20530**July 07, 2003*

MEMORANDUM FOR: Contracting Officers

FROM: Michelle L. Wall
Assistant Director, Acquisition Programs Group

SUBJECT: Buyer Checklist and File Setup
SAS Instruction 97-11 (Revision X)

This Buyer Checklist and File Setup instruction is designed to assist contracting officers in the procurement process. The standardization of the use of a checklist and file setup is also intended to promote consistency among contracting offices. This should facilitate ease in training new staff and ensure that all steps in the procurement process have been met prior to award of any action. Use of the Simplified Acquisition checklist and file setup is **required** for all acquisitions **exceeding \$2,500**, except 1) Blanket Purchase Agreement (BPA) calls, and 2) OBD-47 actions. See SAS Instructions 97-13 and 97-14 for BPA procedures, including establishment of the BPA, file content requirements, administration and recording of BPA calls. See *SAS Instruction 01-42 for procedures and requirements for conducting OBD-47 actions*. The use of the micro-purchase checklist is **optional, but strongly encouraged**.

Each separate Purchase Order (PO) or Delivery or Task Order (DO/TO) action requires a separate folder and tabs. Tab numbers that are not used for the action do not need to be included in the file. Purchase card transactions up to \$2,500 do not require use of the Micro-purchase checklist, however, if used, the checklist may be filed along with all other purchase card transactions and documentation. Pursuant to SAS Instruction 97-22 covering the Purchase Card Program, the Purchase Card may not be used as a procurement method for acquisitions in excess of \$2,500. It may only be used as a payment mechanism for such acquisitions.

Applicable regulations and procedures should be checked. Non-applicable regulations and procedures should be denoted by N/A. Each checklist must be original and have an original signature and date by the Contracting Officer.

For additional assistance, contact the cognizant analyst listed in the SADR table of contents.

Attachments

MICRO-PURCHASE BUYER CHECKLIST

Requestor: _____ Brief Description of supply/service required: _____

_____ Funding certified and available

Required Sources

_____ Agency inventory/excess property _____ UNICOR _____ JWOD _____ FSS

Section 508

_____ Is supply/service part of a larger Electronic and Information Technology procurement exceeding the micro-purchase threshold? If yes, complete Section 508 Requisition Checklist. (See SAS Instruction 01-49 for Section 508 Guidance, and 97-04 for Section 508 Checklist)

Energy Efficient Standby Power Devices

_____ Is product commercially available, off-the-shelf that uses external standby power devices, or that contains an internal standby power function.

http://www.eren.doe.gov/femp/resources/standby_power.html

_____ Does product use no more than one watt in its standby power consuming mode?

_____ Is this the product with the lowest standby power wattage? If no, provide justification in file why product that meets energy efficient standby requirement is not being acquired.

Greening the Government (FAR 23.404)

_____ Is product identified on EPA's list of designated products (<http://www.epa.gov/cpg>)?

_____ Does the product price exceed \$10,000, or is the aggregate amount paid for the product, or for functionally equivalent products (at the Dept/Agency level) in preceding fiscal year \$10,000 or more? (If yes to either, must purchase items that are or can be made from recovered materials. If not, must provide written justification if an EPA-designated product does not contain recovered material based on the inability to acquire the product (1) competitively within a reasonable period of time; (2) at a reasonable price; or (3) to reasonable performance standards in the specifications, provided a written determination by technical/requirements personnel of the performance standard's reasonableness is included with the justification. A copy of the justification must be faxed to the DOJ Green Advisor at 202-307-1915, and reviewed by the Department's Environmental Executive, who is the AAG/A. US Attorneys office justifications should be sent to the DOJ Green Advisor via the Assistant Director, FMSS, EOUSA. Contact DOJ's "Green" Technical Advisor, Marvin Hecker (202) 514-2977, or Dawn Gunning, at (202) 353-0761 with questions concerning standards of CPG products or other technical greening requirements)(Contracting Officers do not need affirmative approval of justifications before completing action)

Clauses - _____ Include FAR clause 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration

Verification of Price Reasonableness (SEE FAR 13.202)(Only required if CO has question on reasonableness)

_____ I verified the price reasonableness for this action because I suspected or had information to indicate that the price may not be reasonable. Explanation and results are described in an attached page(s) to this checklist.

Contracting Officer Signature: _____ Date: _____

SIMPLIFIED ACQUISITION BUYER CHECKLIST

Requestor: _____
 Date Received by Buyer: _____
 Brief Description of supply/service required: _____
 Statement of Work attached? _____

FILE WORKING FROM BOTTOM UP

(Insert Tabs for applicable Sections Only /Answer Yes, No or N/A for Not Applicable)

TAB 1 - REQUISITION DOCUMENT (SF186/551)

_____ Funding certified and available.
 _____ Requirement will be issued subject to the availability of funds (funding document must be in the file) (See SAS Instruction 01-45)

SECTION 508 (FAR 39.2) _____ Is supply/service part of a larger procurement exceeding the micro-purchase threshold? If yes, complete Section 508 Requisition Checklist (See SAS Instruction 01-49 for Section 508 Guidance, and 97-04 for Section 508 Checklist)

E.O. 13221 ENERGY EFFICIENT STANDBY POWER DEVICES

_____ Is product commercially available, off-the-shelf that use external standby power devices, or that contain an internal standby power function. (See SAS Instruction 01-50).

http://www.eren.doe.gov/femp/resources/standby_power.html

_____ Does product use no more than one watt in their standby power consuming mode?
 _____ Is this the product with the lowest standby power wattage? If no, provide justification in file why product that meets energy efficient standby requirement is not being acquired.

GREENING THE GOVERNMENT (FAR 23.404)

_____ Is product identified on EPA's list of designated products (<http://www.epa.gov/cpg>)?
 _____ Does the product price exceed \$10,000, or is the aggregate amount paid for product, or for functionally equivalent products (at the Dept/Agency level) in preceding fiscal year \$10,000 or more? (If yes to *either*, must purchase items that are or can be made from recovered materials. If not, must provide written justification if an EPA-designated product does not contain recovered material based on the inability to acquire the product (1) competitively within a reasonable period of time; (2) at a reasonable price; or (3) to reasonable performance standards in the specifications, provided a written determination by technical/requirements personnel of the performance standard's reasonableness is included with the justification. A copy of the justification must be *faxed to the DOJ Green Advisor at 202-307-1915, and reviewed by the Department's Environmental Executive, who is the AAG/A. US Attorneys office justifications should be sent to the DOJ Green Advisor via the Assistant Director, FMSS, EOUSA. Contact DOJ's "Green" Technical Advisor, Marvin Hecker (202) 514-2977, or Dawn Gunning, at (202) 353-0761 with questions concerning standards of CPG products or other technical greening requirements*)(*Contracting Officers do not need affirmative approval of justifications before completing action*)

PROHIBITION AGAINST CONTRACTOR EMPLOYMENT OF FOREIGNERS FOR WORK ON DEPARTMENT OF JUSTICE CONTRACTS FOR INFORMATION TECHNOLOGY (See SAS Instruction 02-30.)

_____ Does requirement need contractor personnel for information technology services? If so, is prohibition notification included in solicitation/award document?

RESIDENCY REQUIREMENT (See SAS Instruction 03-51)

_____ If the procurement is for services to be performed in the United States, and the waiver described in

03-51 is not applicable, the solicitation or purchase order or delivery order/task order or contract must contain the Residency Requirement clause provided in SAS Instruction 03-51. Check above and insert residency requirement clause if applicable.

PROHIBITION OF ACQUISITION OF PRODUCTS PRODUCED BY FORCED OR INDENTURED CHILD LABOR (FAR 22.15)

_____ Is product identified on the List of Products Requiring Contractor Certification at <http://www.dol.gov/dol/ilab> [click Programs & Services, International Child Labor Program, Executive Order]. *If no, proceed to next checklist item, However, Clause 52.222-19 must be included in all solicitations and purchase orders over the micro-purchase threshold. If yes, you may not purchase a listed product from the listed country of origin, unless either :*

- A) *The contractor properly completes the certification at 52.222-18, or*
- B) *The listed product is from the following country of origin:*
 - _____ Canada and anticipated value is \$25,000 or more;
 - _____ Israel and anticipated value is \$50,000 or more;
 - _____ Mexico and anticipated value is \$56,190 or more; or
 - _____ Aruba, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hong Kong, Ireland, Italy, Japan, Korea, Liechtenstein, Luxembourg, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland or the United Kingdom and the anticipated value is \$169,000 or more; or
- C) *The listed product is from the listed country in item B) above, and the anticipated value is less than listed in item B) above, and the contractor properly completes the certification at 52.222-*

18.

METHOD OF PROCUREMENT:

REQUIRED SOURCES OF SUPPLIES/SERVICES (FAR Part 8)

_____ Agency inventory/excess property _____ UNICOR _____ JWOD _____ Federal Supply Schedules

OPEN MARKET

- _____ Competitive
- _____ *Non-competitive Action:*
 - _____ *Utility services available from only one source*
 - _____ *Brand name (include justification. This does not replace competition)*
 - _____ *8(a)*
 - _____ *Sole Source (include justification under Tab 4)*

TAB 2 - POSTING OR SYNOPSISING REQUIREMENTS

Applies to all OPEN MARKET requirements over \$10,000 (See SAS Instruction 97-09)

Over \$10,000 _____ Posted requirement for at least 10 days in a public place or by any appropriate electronic means (see FAR subpart 5.101 (a)(2)) if non-commercial). Place copy of posting and all responses at TAB 2.

Over \$25,000 _____ Requirement must be advertised via FedBizOpps (<http://www.fedbizopps.gov>). Place copy of advertisement and all responses at TAB 2.

_____ The requirement for synopsis waived based on an urgent and compelling need to obtain the supplies/services. (The use of "only one source" justification is not a basis for synopsis waiver)

___ Not required by regulation or statute (i.e., GSA FSS buys, 8(a)).

NOTE: If your open market delegation is limited to \$25,000, you must send your requirement to Acquisition Programs Group for processing. US Attorneys Office DPA holders should submit such requirements to FMSS, EOUSA.

TAB 3 - COMPETITION (Complete Worksheet 1)

DETERMINATION OF RESPONSIBILITY (Applies to Open Market)

___ Check "List of Parties Excluded from Federal Procurement and Non-Procurement Programs" before soliciting a vendor (see FAR subpart 9.405). Refer to <http://www.arnet.gov> to access the website.
Date listing checked _____

___ Competition requirement has been satisfied by soliciting at least three qualified sources (complete Worksheet 1 and/or file copy of Request for Quotation & Quotations from Vendors under Tab 3.

___ Oral Solicitation (refer to FAR 13.106-1 to see if appropriate (must complete Worksheet 1))

Open market acquisitions between \$2,500 and \$100,000 shall be set aside for small business unless the contracting officer determines that there is no reasonable expectation of obtaining offers from two or more responsible small business concerns that can provide the goods/services at a reasonable price (reference FAR 13.003(b)(1) and 19.502-2 (a)). Complete the justification below if award to other than small business.

Justification for Dissolving Small Business Set-Aside

This procurement was not set-aside for small business because;

- Order is awarded to a mandatory source of supply.
- Non-competitive requirement as identified in TAB 1 above.
- There is no reasonable expectation of obtaining offers from at least two responsible small business concerns that will be competitive in terms of market price, quality and delivery. (FAR 19.502-2(a))
- No reasonable quotes were received from small businesses

FEDERAL SUPPLY SCHEDULE:

___ Check price-list of at least 3 schedule vendors

___ GSA Advantage (File results of query)

TAB 4 - SOLE SOURCE JUSTIFICATION (Applies to Open Market) (See SAS Instruction 01-43)

___ Only one source solicited based on either

___ urgent and compelling

___ only one source

___ Sole source justification in the file

TAB 5 - WAGE DETERMINATION (Applies to Open Market)(See SAS Instruction 97-33)

___ Wage determination(s) has been obtained for service requirements exceeding \$2,500

___ Wage determination in file (include appropriate clauses on purchase order clause matrix)

TAB 6 - APPROVALS OBTAINED OR WAIVERS GRANTED: (Check all that apply)

- _____ ADP (SPS)
- _____ Authority for Paid Advertising in Newspapers (SAS Instruction *pending*)
- _____ Photocopiers over 60 pages per minute (FASS)
- _____ Telecommunications (TSS)
- _____ UNICOR (i.e., furniture) (place waiver in file)
- _____ Necessary Expenses (i.e., working meals, etc.)(approvals must be in file)
- _____ Government Printing Office (printing waiver must be obtained prior to contracting with any open market vendor. Contact JMD FASS (202) 514-7500 to request printing waiver. Copy of waiver must be in file or file annotated that verbal waiver was provided)
- _____ Other:

TAB 7 - DETERMINE PRICE PAID IS FAIR AND REASONABLE: (Complete Worksheet No. 2)
See SAS Instruction 01-44 and FAR subpart 13.106-3 (1) and (2)

TAB 8 - FEDERAL PROCUREMENT DATA SYSTEM REPORTING REQUIREMENT
See SAS Instruction 97-19

___ Required data recorded in the Automated Statistical Reporting System (ASRS) (please verify that the requirement is coded correctly). For requirements exceeding \$25,000, you must record required data in the ASRS and complete a SF 279.

TAB 9 - CORRESPONDENCE
File all purchase order correspondence (e-mail, memorandums for record, phone conversation records, other written correspondence) here.

TAB 10 - AWARD (See SAS Instruction 97-15)
File copy of purchase/delivery/task order award document, including appropriate clauses and attachments, if applicable.

TAB 11- MODIFICATIONS (See SAS Instruction 97-12)
File modifications along with supporting documentation (memorandum, amended purchase request, request from contractor, etc.).

TAB 12 - PURCHASE/DELIVERY ORDER CLOSE-OUT (See SAS Instruction 97-17 for Closeout Procedures) - File the closeout checklist under this tab.

TAB 13 - CHECKLIST

Contracting Officer Signature: _____ Date Prepared: __/__/__

WORKSHEET 1 - TAB 3
COMPETITION

APPENDIX III

[] Open Market - Solicit at least three sources (reference FAR subpart 13.104)

[] Federal Supply Schedules - Review price lists/catalogs of at least three schedule contractors (reference FAR subpart 8.404 (b)(2)).

Names and addresses of Contractors solicited	Item	Price Quoted
1. _____ _____	_____ _____	_____ _____
Telephone Number _____	Vendor Spokesperson _____	
Date Contacted _____	GSA Schedule No. _____	
Quote Total \$ _____		

Names and addresses of Contractors solicited	Item	Price Quoted
2. _____ _____	_____ _____	_____ _____
Telephone Number _____	Vendor Spokesperson _____	
Date Contacted _____	GSA Schedule No. _____	
Quote Total \$ _____		

3. _____ _____	_____ _____	_____ _____
Telephone Number _____	Vendor Spokesperson _____	
Date Contacted _____	GSA Schedule No. _____	
Quote Total \$ _____		
Vendor Selected: _____		

Use a separate sheet to record additional quotes. Attach any written quotes received or copy of price lists or pages from catalog.

WORKSHEET 2 - TAB 7
REASONABLENESS OF PRICE/BEST VALUE

PRICE REASONABLENESS

In accordance with FAR 13.106-2, the price paid is determined to be fair and reasonable based upon (check all that apply):

- Effective competition from ___ sources obtained
- Market research (include supporting information)
- Comparison of proposed price with prices found reasonable on previous purchases

<u>Order Number</u>	<u>Contractor</u>	<u>Date</u>	<u>Price Paid</u>
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- Current price lists, catalogs, or advertisements (attach copy)
- Comparison with prices of similar items in a related industry
- Contracting officers's personal knowledge of the item being purchased (include explanation)
- Price set by statute or tariff
- Other _____ (include supporting information)

GSA SCHEDULE ORDER BEST VALUE DETERMINATION

In accordance with FAR 8.404, award of this GSA Schedule delivery order represents the best value and results in the lowest overall cost alternative to the government based on (check all that apply):

- Special features of the supply or services required for effective program performance
- Trade-in considerations
- Probable life of the item selected as compared with that of a comparable item
- Warranty considerations
- Maintenance availability
- Past performance
- Environmental and energy efficiency considerations
- Other _____ (include supporting information)

Contracting Officer Signature _____ Date: _____

Image Not Available

U.S. Department of Justice Attachment 3

Justice Management Division

Procurement Services Staff

Washington, D.C. 20530

February 14, 2003

MEMORANDUM FOR: Contracting Officers

FROM: Michelle L. Wall
Assistant Director, Acquisition Programs Group

SUBJECT: Closeout Procedures
SAS Instruction 97-17 (Revision 5)

This revision clarifies procedures required for closeout of simplified acquisition files pursuant to FAR Section 4.804.

1. Overview.

The requirement for closing out simplified acquisition files is prescribed by FAR 4.804-1(a)(1). It should be noted, however, that in accordance with FAR 4.800 the application of the FAR subpart to simplified acquisition procedures is optional. Accordingly, the contracting officer must comply with the requirements set forth to closeout purchase and delivery orders.

2. When is Closeout Required?

Files using simplified acquisition procedures should be closed after the contracting officer receives evidence of receipt of property and final payment. For services, files should be closed after performance is completed and final payment made. The contracting officer is responsible for ensuring that all required contractual actions have been completed before the Closeout Document Checklist is prepared.

a. Contract Completion.

An order is considered to be physically completed when:

1. The contractor has completed the required deliveries and the Government has

inspected and accepted the supplies.

2. The contractor has performed all services and the Government has accepted these services.
3. All option provisions, if any, have expired.
4. The Government has given the contractor a notice of complete contract termination.
5. Facilities contracts and rental, use, and storage agreements are considered to be physically completed when—(i) The Government has given the contractor a notice of complete contract termination; or (ii) The contract period has expired.

b. Contract Administration.

Even though performance has been completed, outstanding contracting issues can preclude closeout of files. Purchase order files shall not be closed out when the following conditions are present:

- (1) Equitable adjustments due the contractor have not been resolved;
- (2) The contract is in litigation or under appeal; or
- (3) In the case of a termination, all termination actions have not been completed.

3. File Documentation.

The contracting officer responsible for closeout must ensure that the file is properly documented to support the actions taken. At the minimum, the following documentation is required.

- a. Contracting officer needs to have obtained proof of receipt/performance of supplies, equipment and services (i.e., receiving report on back of purchase order, E-mail or other written document).
- b. Contracting officer must add to the file a copy of the applicable FMIS2+ report as proof of full and final payment.
- c. Contracting officer compares total payment with amount of purchase order, including modifications. Any variation in funding needs to be addressed. See paragraph 4 below.

- d. The attached closeout checklist has been completed by the contracting officer and placed in the purchase order file.

4. Variation between Final Payment and the Amount of the Order.

The contracting officer is responsible for determining the basis for a variance between the "total payment" amount and the amount of the purchase order, including modifications. If the variance is based on a small overage at the same unit price (\$100 or 10% of the total price, whichever is lower) a modification is not required.

If the variance exceeds the dollar thresholds above or is not due to a variation in quantity, the contracting officer needs to resolve the variance through negotiations with the contractor. Excess funds on the purchase/delivery order should be deobligated by modification to the order providing the order was not a "Not to Exceed the Ceiling Price" order AND a deobligation modification is not required by finance.

It is possible that a modification deobligating funds could constitute a Termination for the Convenience of the Government. See FAR 52.249-1. If such is the case, the contracting officer needs to comply with the provisions of FAR 49.2. See also SAS Inst 01-47 for further guidance regarding terminations.

5. Time Standards for Closing Out Purchase/Delivery Order Files.

As a general matter, contracting officer shall close files within 45 days after completion of performance and issuance of final payment have been verified, unless there are other outstanding issues to be resolved.

In accordance with FAR Part 4.805(b), closed purchase order files shall be stored, handled, and disposed in the following manner.

- a. Files awarded for actions of less than \$100,000 shall be retained for (3) three years from date of final payment.
- b. Files awarded for actions of \$100,000 or more shall be retained for (6) years and three months from date of final payment. This includes expert witness and litigative consultant awards and orders against GSA schedules and other agency contracts.

After completion of the required record retention period, disposal of files shall be in accordance with the Department of Justice and General Records Schedule procedures.

For additional assistance, contact the cognizant analyst listed in the SADR table of contents.

Attachment

Attachment 1

**SIMPLIFIED ACQUISITION CLOSEOUT
DOCUMENTATION CHECKLIST**

PURCHASE/ DELIVERY ORDER NUMBER _____

**AMOUNT OF ORDER, INCLUDING
MODIFICATIONS** \$ _____

AMOUNT OF TOTAL PAYMENT \$ _____

IF THERE IS A VARIANCE, HAS IT BEEN ADDRESSED _____
(Issuance of Modification or Other Method)

PROOF OF RECEIPT ATTACHED // YES // NO
(receiving report)

PROOF OF FINAL & TOTAL PAYMENT ATTACHED // YES // NO
(FMIS2+report)

CONTRACTING OFFICER

DATE

**OFFICE OF THE INSPECTOR GENERAL,
AUDIT DIVISION, ANALYSIS AND SUMMARY OF
ACTIONS NECESSARY TO CLOSE REPORT**

The EOUSA's response to the audit (Appendix III) describes the actions taken or plans for implementing our recommendations. This appendix summarizes our response and the actions necessary to close the report.

Recommendation Number:

1. **Closed.** The JMD Finance staff has confirmed that subcertifiers cannot bypass their delegated payment limits.
2. **Resolved.** The Facilities and Support Services Staff have requested that the purchase card statement be modified. To close this recommendation, please provide us with the final determination made by BankOne to modify the purchase card statement.
3. **Resolved.** The Resource Management and Planning Staff will discuss the redesign and reissuance of the Accountable Officers Signature Form, OBD-234. To close this recommendation, please provide us with the final determination made by JMD concerning the redesign and reissuance of the Form OBD-234.
4. **Resolved.** The Facilities and Support Services Staff will request that JMD establish new dollar limits for purchases made from UNICOR, NIB/NISH, and FEDSTRIP by Contracting Officers. To close this recommendation, please provide us with the final determination made by JMD to establish new dollar limits and to modify the existing Contracting Officers Certificates indicating the new dollar limits.
5. **Resolved.** The EARS staff is in the process of revising their evaluation guide. To close this recommendation, please provide us with a copy of the latest EARS guide noting the changes made.
6. **Resolved.** The EARS staff is in the process of revising their evaluation guide to expand their review to all years since the last review. To close this recommendation, please provide us with a copy of the latest EARS guide noting the sampling that covers all years since the last review.

APPENDIX IV

7. **Resolved.** JMD now mandates use of their comprehensive checklist in all acquisitions exceeding \$2,500. EOUSA has requested that JMD enhance their form to add elements of value. We suggest that additional elements such as the name of the purchase card holder, the date goods or services were ordered, the person who received and checked the goods or services, the approving officer's name and date, the budget officer's name and date, and simple instructions for completing the form requiring initials of the person approving/performing the function be added to the existing mandatory checklist. To close this recommendation, please provide us with a copy of the final checklist noting the changes made to the form.